

Student Records and Student Directory Information Policy

Annual Notification

BHSU students are notified of their FERPA rights annually in the University's *Student Handbook*, produced by the Office of the Vice President for Student Life. The *Student Handbook* is available to all students electronically on the BHSU webpage, and is available in hard copy to all students who request it.

This policy is intended to implement the requirements of the Family Educational Rights & Privacy Act (FERPA), and to the extent that there is any dispute concerning the terms and conditions of the policy, provisions of FERPA will prevail in each instance, notwithstanding anything in the policy which seems to provide otherwise.

Definitions

For the purposes of this policy, Black Hills State University uses the following definitions of terms.

Student: Any person who attends or has attended Black Hills State University, beginning on the first day the student begins attending class on any campus of Black Hills State University, at the Higher Education University Center in Rapid City, or through any distance education offered by Black Hills State University. This policy does not apply to applicant files or to files of accepted applicants who do not matriculate.

Education Records: Any record (in any medium including handwriting) maintained by Black Hills State University, a college of Black Hills State University, or an agent of Black Hills State University which is directly related to a student, except:

1. A personal record kept by a staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person.
2. Records maintained by Black Hills State University Department of Safety & Security, Student Health Services, Student Counseling Center, Career Center, TRIO Program, and Office of Disability Services, if the records are maintained solely for the purposes of that department, are revealed only to the person within that department or to other authorized persons as provided by FERPA, and those departments do not have access to education records maintained by Black Hills State University.
3. Alumni records which contain information about a student after s/he is no longer in attendance at Black Hills State University and which do not relate to the person as a student.

School Official: An official agent of the institution performing a business function or service on behalf of the institution.

Legitimate educational interest: A school official is determined to have legitimate educational interest if the information requested is necessary for that official to:

- a) perform appropriate tasks that are relevant and necessary to the accomplishment of an employment responsibility of the inquirer;
- b) perform a task related to a student's education;
- c) perform a task related to the discipline of a student;
- d) provide a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.

NOTE: Access to information under this definition does not constitute authorization to share information with a third party without the student's written permission.

Questions regarding "legitimate educational interest" should be referred to the Vice President of Academic Affairs, Vice President for Student Life, Associate Vice President of Academic Affairs, Registrar, Dean of Students, or the Dean of the college in which the student is enrolled. Instances of dispute regarding "legitimate educational interest" will be resolved by the University Registrar.

Parent: A student's birth or adoptive parent, guardian, or an individual acting as a parent in the absence of a parent or guardian.

Procedure to Inspect Educational Records

Students may inspect and review their education records upon written request to the office of the Dean of the college in which the student is enrolled, the Office of the University Registrar, or the custodian of the record. The written request must identify as precisely as possible the record or records the student wishes to inspect. Copies of all written requests are to be maintained in the student file in which the requested educational record is maintained. The custodian of the record(s) requested will make the necessary arrangements for access as promptly as possible, but no later than 45 days from the receipt of the request, and notify the student of the time and place that the records may be inspected. When a record contains information about more than one student, the student may inspect and review only the records which relate to him/her, or a record that has been redacted to protect the privacy of other students.

Right to Refuse Access

Black Hills State University reserves the right to refuse to a student permission to inspect the following records:

1. Letters and statements of recommendation for which the student waived his/her right of access.
2. Records connected with an application to another unit of Black Hills State University, if that application was denied.
3. Those records which are excluded from the definition of education records (above).
4. Under compelling circumstances...the financial statement of the student's parents.

Refusal to Provide Copies

Black Hills State University reserves the right to deny copies of education records if it would create an unreasonable burden to Black Hills State University. In that case the student retains the right to review the records personally or through an agent.

Fees for Copies of Records

The fee for copies is \$.25 per page, and may also include the hourly rate of the employee processing the request.

Disclosure of Educational Records

Black Hills State University will disclose information from a student's education records only with the written consent of the student, except

1. To school officials who have a legitimate educational interest in the records. School officials may not release any information to a third party without the written consent of the student, except as specified below.
2. Letters of recommendation which are made from the recommender's personal observation or knowledge do not require a written release from the student who is the subject of the recommendation. However, if the student wishes the recommender to include personally identifiable information from a student's education record (such as grades, GPA, etc.), the student must provide the school official with a signed release (reference this form: *Request, Authorization and Consent to the Release of Educational Records by Black Hills State University*). The signed release is to be placed in the student file which holds the education record.
3. To officials of another school, upon request, in which a student seeks or intends to enroll. Black Hills State University will make a reasonable attempt to inform the student prior to the disclosure, unless the request was initiated by the student.
4. To certain officials of the U.S. Department of Education, the Comptroller General of the United States, the Attorney General of the United States, and state and local educational authorities, in connection with certain state or federally supported education programs.

5. To persons or organizations providing financial aid to students or determining financial aid decisions, on the condition that the information is necessary to: a) determine eligibility for the aid; b) determine the amount of the aid; c) determine the conditions for the aid; or d) enforce the terms and conditions of the aid.
6. If required by state law requiring disclosure that was adopted before November 19, 1974.
7. To organizations conducting certain studies for or on behalf of Black Hills State University or any of the colleges of Black Hills State University to develop, validate, and administer predictive tests, to administer student aid programs, or to improve instruction.
8. To accrediting organizations to carry out their functions.
9. Under compelling circumstances...to the parent(s) of an eligible student who claimed the student as a dependent on their most recent income tax return, provided the parent(s) provide adequate documentation of the dependent status, in writing. Disclosure may not be made without such written documentation.
10. To comply with a judicial order or a lawfully issued subpoena. Black Hills State University will make a reasonable attempt to inform the student prior to the disclosure, unless ordered not to do so by the subpoena.
11. To appropriate parties in a health or safety emergency.
12. To a victim of an alleged act of violence, including a non-forcible sex offense, who requests the final results of any institutional disciplinary proceeding against the alleged perpetrator of the incident with respect to that allegation.
13. To parents regarding the student's violation of any federal, state, or local law, or of any institutional policy or rule governing the use of alcohol or a controlled substance, if: a) the student is under the age of 21 and unemancipated at the time of disclosure; and b) the institution has determined that the student committed a disciplinary violation with respect to that use or possession.
14. To Veterans Administration officials, the Bureau of Citizenship and Immigration Services, the Federal Bureau of Investigation, military recruiters, or the Internal Revenue Service, under certain state or federal laws.
15. To the parent or guardian, an appointee of the parent or guardian, the next of kin, or a personal representative of the student's estate of a student who is officially declared a missing person by state or federal authorities. This exception applies only if the person is thought by the administration to be reasonably conducting business on behalf of the student. Black Hills State University reserves the right to limit or deny access.

A student's consent to release information from his/her education record to a third party, when required, must be submitted in writing to the custodian of the record (typically the office of the Dean of the college in which the student is enrolled, to the Dean of Students, or to the University Registrar. Such written consent must: a) specify the records to be released; b) state the purpose of the disclosure; c) identify the party or class of parties to whom disclosure may be made; and d) be signed and dated by the student. The eligible student must fill out the *FERPA Educational Records Release Form* and return it to the Registrar's Office, (Woodburn 104).

When a student authorizes the release of information, as described above, Black Hills State University will notify the third party that they are not permitted to disclose the information to others without additional written consent of the student. Names of any other student(s) involved, including a victim or witness, may not be disclosed with written consent of the other student(s).

Records of deceased students: From the date of death of a student or former student, records previously available only to that student or with the student's consent may, within the first 25 years following the student's death, be released to: a) the personal representative of the student's estate; b) the parents or next of kin of the student; or c) upon the closing of the student's probate estate or two years after the student's death, if no probate estate has been opened, the student's next of kin or the takers of the student's residuary estate under his or her last will or will equivalent.

Following the 25th anniversary of the student's death, the records of a student may be released upon good cause shown, in the sole discretion of the school administration.

Any written statement by the student prior to death or in the student's last will to the contrary may supersede the above rules.

At the discretion of the administration, the University may release records 75 years following the creation of the record, if there exists a reasonable presumption of the death of the student. The administration is required to exercise reasonable caution to avoid releasing records of living persons. The administration will redact social security number, and reserves the right to redact any other information.

Record of Request for Disclosure

When information is requested or released from a file without student consent, a *Record of Request for Disclosure of Student Information* is maintained in the file in which the student education records are maintained. Such record is not required when: a) the information is released to a school official, to the student, or with the consent of the student; b) for the release of student directory information, as specified below; or, c) when required by law not to record the request or disclosure. The record will indicate the name and address of the party making the request and the legitimate interest the party had in requesting or obtaining the information. Records of disclosure and requests for disclosures are considered part of the student's educational records; therefore, they are retained as long as the educational records to which they refer are retained by Black Hills State University or any of its colleges or agents.

Student Directory Information

Black Hills State University maintains two levels of Student Directory Information: (1) Publicly Available Information; and (2) Non-Public Information.

Publicly Available Information: Pursuant to regulations implementing the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g(a)(5)(A), as defined in 34 C.F.R. ss 99.3.

Black Hills State University defines the following items as *Publicly Available Student Directory Information*:

- Name
- Dates of Enrollment (start and end date)
- Academic Level (Undergraduate or Graduate)
- Major Field of Study
- Date of Graduation and Degree Awarded
- Home Town

Black Hills State University may disclose any of these information items without prior written consent, unless notification to the contrary is given in writing by the student to the Registrar by the 10th day of classes of the first semester during which the student is enrolled (reference this form: *Directory Information Opt-Out Form*). Nondisclosure stipulations remain in effect until removed in writing by the student, even if the student has withdrawn or graduated.

Non-Public Information: Black Hills State University defines the following items as *Non-Public Student Directory Information*:

- All Publicly Available Information (listed above)
- BHSU E-Mail Address

Black Hills State University makes these information items available to other students, institutional personnel, or parents in the case of children under age 18 unless notification to the contrary is given in writing by the student to the Registrar by the 10th day of classes of the first semester during which the student is enrolled (reference this form: *Directory Information Opt-Out Form*). Nondisclosure stipulations remain in effect until removed in writing by the student, even if the student has withdrawn or graduated.

Correction of Educational Records

Students and parents of dependent students, who have been granted access to student educational records, have the right to request corrections be made to records that they believe are inaccurate, misleading, or in violation of their privacy rights. (Note: The right to request the correction of a student's education record does not include the right to contest a grade received in a course. Grade grievances are addressed by the policy of the Board of Regents). The procedure for the correction of records is as follows:

1. A student must submit a written request to amend a record to the custodian of the record, the office of the Dean of the school in which s/he is enrolled or, in the case of an unclassified student, to the University Registrar. The request must identify the part of the record s/he requests changed and specify why s/he believes it is inaccurate, misleading, or in violation of his/her privacy or other rights.
2. Acting on behalf of Black Hills State University, the record custodian, the Dean of the school in which the student is enrolled, or the University Registrar may comply with or deny the request. If the request is denied, the office making the determination of denial will notify the student of the decision and advise him/her of his/her right to a hearing and to challenge the decision.

Students may challenge the denial using the Academic Appeals policy (for academic matters) or the Student Code of Conduct Appeal Policy (for non-academic matters) found in the *Student Handbook*. The student may be assisted in the grievance process by another person, including an attorney, at the student's expense. Students who have ceased attendance or graduated retain the right to a hearing.

3. If Black Hills State University determines that the challenged information is not inaccurate, misleading, or in violation of the student's right to privacy, it will notify the student that s/he has a right to place in his/her educational record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.
4. The statement submitted by the student shall be maintained as part of the student's education record as long as the contested portion is maintained. If Black Hills State University discloses the contested portion of the record, it must also disclose the student's statement.
5. If Black Hills State University determines that the information is inaccurate, misleading, or in violation of the student's right of privacy, it will correct the record and notify the student, in writing, that the record has been corrected.

Types, Locations and Custodians of Educational Records

Many University offices, including each Dean's office, college, Office of the Registrar, department offices, as well as others, maintain educational records. Students should contact the appropriate location for access to their records.

Summary of Rights under the Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. These rights include:

- The right to inspect and review the student's education records within 45 days of the day the University receives a request for access.
 - A student should submit to the Registrar, Dean, head of the academic department, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The University official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the University official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.
- The right to request amendment of the student's education records that the student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

- A student who wishes to ask the University to amend a record should write the University official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.
- If the University decides not to amend the record as requested, the University will notify the student in writing of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.
- The right to provide written consent before the University discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent.
 - The University discloses education records without a student's prior written consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the University has contracted as its agent to provide a service instead of using University employees or officials (such as an attorney, auditor, or collection agent); a person serving on the Board of Regents; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
 - A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities for the University. Upon request, the University also discloses education records without consent to officials of another school in which a student seeks or intends to enroll.
- The right to file a complaint with the U.S. Department of Education concerning alleged failures by the University to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-5901
- The right to withhold disclosure of directory information. To prevent the disclosure of a student's directory information, the eligible student must fill out the *Directory Information Opt-Out Form* and return it to the Registrar's Office, (Woodburn 104) by the 10th day of classes of the first semester during which the student is enrolled.

Please Note: The regulations implementing FERPA permit the disclosure of directory information. Unless the student has followed the procedure to withhold disclosure of directory information, BHSU may disclose, without consent, directory information such as name, dates of enrollment (start date and end date), academic level (undergraduate, graduate, professional), major field of study, date of graduation and degree awarded.